

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

United States of America,)	
)	
Plaintiff,)	
)	Case No. 3:10-cr-134
vs.)	
)	REPORT AND RECOMMENDATION
Earl Russell St. Claire,)	
)	
Defendant.)	

On April 5, 2011, Earl Russell St. Claire (“St. Claire”) was sentenced in the United States District Court in North Dakota to a term of imprisonment of nine months followed by three years of supervised release for the offense of conspiracy to manufacture counterfeit obligations of the United States, in violation of 18 U.S.C. § 371. On April 12, 2011, St. Claire began his term of supervised release.

On June 27, 2011, St. Claire’s probation officer presented a Petition for Warrant or Summons for Offender under Supervision. On October 25, 2011, St. Claire’s probation officer presented an Amended Petition for Warrant or Summons for Offender under Supervision, alleging St. Claire violated a standard condition of supervision and special condition #1:

On June 26, 2011, in Fargo, North Dakota, Earl Russell St. Claire absconded from Centre, Inc. Evidence in support of this charge includes documentation from Centre, Inc. As of June 27, 2011, Mr. St. Claire had not returned to the facility and his whereabouts were unknown.

On October 7, 2011, in Douglas County, Minnesota, Earl Russell St. Claire was convicted and sentenced for Giving a False Name to a Peace Officer. He was sentenced to 365 days jail with 322 days suspended and credit for time served. He was charged in another count with Controlled Substance Crime in the Fifth Degree (Methamphetamine) which was dismissed. Evidence in support of this allegation includes the Criminal Judgment and Warrant of Commitment from Douglas County Court in case CR-11-1538.

On October 14, 2011, in the District of Minnesota, Earl Russell St. Claire admitted he had been using marijuana on a regular basis after absconding from

Centre, Inc., with his last reported use on August 26, 2011. Evidence in support of this allegation includes self report to a Pretrial Services Officer in the District of Minnesota.

The court issued a warrant for St. Claire's arrest. He was arrested on August 26, 2011 on state charges in the District of Minnesota. A detainer was lodged and St. Claire was transferred to the custody of the United States Marshal on October 13, 2011.

St. Claire appeared before the undersigned magistrate judge on October 21, 2011 for an initial appearance. St. Claire filed a waiver of the detention hearing and he was ordered detained pending a final hearing on the petition. The matter was referred to the magistrate judge by Chief Judge Ralph R. Erickson for the preparation of a report and recommendation. A violation hearing was conducted on October 31, 2011. Brett Shasky, Assistant United States Attorney, appeared on behalf of the government, along with Julie Vetter, St. Claire's probation officer. Christopher Lancaster, Assistant Federal Public Defender, appeared on behalf of the defendant. The defendant consented to the magistrate judge conducting the hearing and making a recommendation for disposition.

At the hearing, St. Claire admitted the allegations contained in the petition. The magistrate judge finds his admissions were voluntary and knowingly made, and they have a basis in fact. Accordingly, the magistrate judge **RECOMMENDS** a finding that violations of a standard condition and special condition #1 have occurred.

St. Claire's violations of the conditions of his supervision constitute Grade C violations. See USSG § 7B1.1(a). For a Grade C violation, the court may revoke supervised release, extend the term of supervised release, and/or modify the conditions of supervision. St. Claire was originally sentenced with a criminal history of category IV. Under USSG § 7B1.4 the range of

imprisonment for a Grade C violation for a defendant with a criminal history of IV is six to twelve months.

The parties agreed to the modification of St. Claire's supervised release as follows:

- (1) Defendant shall reside at Heart of America Correctional and Treatment Center and shall participate in the facility's programs and abide by its rules and regulations;
- (2) Upon completion of the treatment program at Heart of America Correctional and Treatment Center, Defendant shall reside at Centre, Inc. in Fargo, North Dakota for a period up to six months and shall participate in the center's programs and abide by its rules and regulations; and
- (3) Defendant shall comply with all of the other terms of his federal supervised release.

The magistrate judge finds the agreed upon modification appropriate and therefore **RECOMMENDS** St. Claire's supervised release be modified consistent with the parties' agreement. After the violation hearing the magistrate judge entered an order of detention pending a final decision on the petition. The magistrate judge further ordered that in the event that the Chief District Judge adopts the recommended disposition of the petition, the United States Marshal shall transport the defendant to Heart of America Correctional and Treatment Center in Rugby, North Dakota. An opening will be available at Heart of America Correctional and Treatment Center on Thursday, November 3, 2011, which is available for St. Claire if he arrives at the facility by Wednesday, November 2, 2011. The next opening will not occur until November 27, 2011.

At the violation hearing defense counsel informed the court that St. Claire suffers from rheumatoid arthritis and there have been issues related to his medical treatment while St. Claire has been detained. It is **RECOMMENDED** that the court recommend St. Claire receive appropriate medical treatment for his rheumatoid arthritis.

Both parties have waived their right to object to this recommendation. An order may be entered on the report and recommendation immediately.

Dated this 31st day of October, 2011.

/s/ Karen K. Klein
Karen K. Klein
United States Magistrate Judge